

CARLSON, GASKEY & OLDS, P.C.**FACSIMILE COVER PAGE**

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GROUND TO BE REVIEWED ON APPEAL

I. Claims 1-4, 6, 13, and 17 were rejected under 35 USC §102(b) as being anticipated by *Huber* (6,151,978).

ARGUMENT

I. §102 Rejection

Independent claim 1 is patentable independently of independent claims 13 and 17

Claims 1-4, 6, 13, and 17 were rejected under 35 USC §102(b) as being anticipated by *Huber* (6,151,978). Applicant respectfully traverses this rejection. Initially, it should be understood that *Huber* is assigned to Appellant and Appellant is thus intimately familiar with *Huber*.

The Examiner refers to column 3, lines 21-26 as reproduced below to argue “clearly *Huber* ’978 implicitly determines relative movement between the first rotational component (being the input shaft 16) and the second rotational component (being the transmission input shaft 20) via the speed sensor (40) and the speed sensor (42) respectively, indicative of an approximate zero torque condition.” [9-21-2005 Office Action, page 5]

position. The preferred embodiment of this invention determines the status of the clutch by utilizing information that is already available and necessary for other portions of the transmission control. The transmission control unit 32 and the engine control unit 34 utilize information regarding the rotational speeds of the engine output shaft 16 and the transmission input shaft 20. Sensors are schematically illustrated at 40 and 42 for providing the speed information regarding those shafts.

Initially, what the Examiner argues is “clearly” shown simply cannot be so as the Examiner is forced to rely only upon what is *implicitly* shown by *Huber* rather than what is explicitly shown. Such implicit recitation is unacceptable under a 35 USC § 102 rejection.